

1 HONORABLE RICHARD A. JONES  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 LUCINDA JENKINS-HAMBY,

11 Plaintiff,

12 v.

13 COMMISSIONER OF SOCIAL  
14 SECURITY,

Defendant.

Case No. 3:18-cv-05783-RAJ

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

15 **I. INTRODUCTION**

16 This matter is before the Court on Plaintiff's objections to the Report and  
17 Recommendation of Magistrate Judge Mary Alice Theiler. Dkt. # 11. Having considered  
18 Plaintiff's objections, the Court **ADOPTS** the Report and Recommendation.

19 **II. DISCUSSION**

20 The background of this matter is detailed in Magistrate Judge Mary Alice Theiler's  
21 Report and Recommendation and will not be repeated here. *See* Dkt. # 11. Plaintiff objects  
22 to the Report and Recommendation and contends that the credit-as-true rule compels this  
23 Court to remand the case for an immediate award of benefits instead of further proceedings.  
24 Dkt. # 8.

25 Before a Court may remand a case to the ALJ with instructions to award benefits,  
26 three requirements must be met: (1) the record has been fully developed and further  
27 administrative proceedings would serve no useful purpose; (2) the ALJ has failed to  
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provide legally sufficient reasons for rejecting evidence, whether claimant testimony or medical opinion; and (3) if the improperly discredited evidence were credited as true, the ALJ would be required to find the claimant disabled on remand. *Burrell v. Colvin*, 775 F.3d 1133, 1141 (9th Cir. 2014); *Garrison v. Colvin*, 759 F.3d 995 (9th Cir. 2014). Magistrate Judge Theiler found that it was not clear that the record had been fully developed, noting such outstanding issues such as the effect of plaintiff's failure to comply with her medication regimen and other treatment recommendations on her functioning and the extent to which her symptoms were unusually exacerbated during in-patient hospitalizations versus her day-to-day functioning. Dkt. # 11. This Court, taking Plaintiff's objections into consideration, agrees that is not clear that the record has been fully developed and that further proceedings would serve no useful purpose. Accordingly, the Court **ADOPTS** Magistrate Judge Theiler's Report and Recommendation.

### III. CONCLUSION

14 For the reasons stated above, and having considered Plaintiff's objections, the  
15 Court **ADOPTS** the Report and Recommendation.

DATED this 31st day of October, 2019.

Richard D. Jones

The Honorable Richard A. Jones  
United States District Judge